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SENSITIVE  
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STATE FOR WHA/MEX, WHA/EPSC  
STATE FOR L/OES KIM  
STATE FOR EB/ESC MCMANUS AND DUGGAN  
USDOC FOR 4320/ITA/MAC/WH/ONAFTA/GWORD  
USDOC FOR ITS/TD/ENERGY DIVISION  
TREASURY FOR IA (ALICE FAIBISHENKO)  
DOE FOR INTL AFFAIRS ALOCKWOOD, GWARD AND KDEUTSCH  
DOI FOR MMS ORR, TEXTORIS AND KARL

E.O. 12958: N/A

TAGS: [ENRG](#) [EPET](#) [ECON](#) [PGOV](#) [MX](#)

SUBJECT: GOM PROPOSES NEGOTIATING BILATERAL AGREEMENT ON  
TRANSBOUNDARY RESERVOIRS

**¶11. (U) Summary:** During bilateral consultations under the Western Gap Treaty and the Treaty on Maritime Limits, the Government of Mexico (GOM) formally proposed opening negotiations with the United States (USG) on an agreement to regulate the exploitation of transboundary - both maritime and land - reservoirs. The meeting with the GOM was positive and open in tone, but raised a number of questions. Without making any commitments, the US delegation indicated openness to hold further discussions while asking the GOM for clarification and additional details. Mexico offered to provide a more formal proposal in writing within 15 days. Our interlocutors expressed gratitude that the USG has refrained from commenting on Mexico's energy reform debate, and asked us to also avoid public comments on their proposal to negotiate an agreement on transboundary reservoirs. End Summary.

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Background:  
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**¶12. (U)** The US and Mexico signed a treaty in 1978 establishing the maritime boundary between the two countries where the distance between them did not exceed 400 nautical miles. This treaty, which entered into force in 1997, left two areas where the distance between shores was greater than 400 nautical miles: the Western Gap and the Eastern Gap in the Gulf of Mexico.

**¶13. (U)** The US and Mexico signed the Western Gap Treaty in 2000. This treaty entered into force in 2001 and established the "continental shelf boundary" between the US and Mexico. The treaty also establishes a "buffer zone" on either side of the boundary to take into account possible transboundary reservoirs, in addition to including notification and consultation provisions about possible reservoirs in that buffer zone. Under the treaty, the parties are not to authorize or permit petroleum or natural gas drilling or exploitation of the continental shelf within the buffer zone for 10 years following entry into force of the treaty. (Note: There is no treaty delineating the continental shelf boundary for the "Eastern Gap," nor is there a USG plan to negotiate a treaty on the Eastern GAP in the near future. This area includes portions claimed by Cuba. End Note.)

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Updates on Information and Data:  
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**¶14. (U)** At the request of Mexico, USG and GOM officials held formal

consultations under Articles 4 and 5 of the Western Gap treaty on August 20 in Mexico City. The GOM requested the meeting to discuss new information and any developments on the exploration and exploitation of possible transboundary reservoirs including both those covered by the Western Gap Treaty and those in other areas of the Gulf of Mexico (which are not covered by the consultation provisions in the Western Gap Treaty). The USG delegation was led by John Kim, Assistant Legal Advisor for Oceans, International Environmental and Scientific Affairs, Department of State. The GOM delegation was led by Ambassador Joel Hernandez, Judicial Advisor, SRE, and consisted of a large and senior level field of officials (The complete list of participants is in paragraph 13.)

¶ 15. (U) The GOM opened discussions by providing a brief overview of PEMEX seismic data and assessments in the deep waters of the Gulf of Mexico. PEMEX New Business Development Manager Dr. Luis Macias said PEMEX assessments have identified some promising geological structures which could contain cross border reservoirs in the Perdido Fold Belt area including Hammerhead/Magnanino and Trident/Alaminos. Macias added that the GOM will be conducting a campaign for more seismic data in the Perdido Fold Belt and Eastern Gulf this fall and winter.

¶ 16. (U) Kevin Karl from MMS confirmed that most activity along the U.S. side of the boundary is in the Perdido Fold Belt area, but no transboundary reservoirs have been identified. Because of poor well control (i.e., few wells drilled near the boundary) and the lack of seismic data from the Mexican side of the boundary, the picture remains incomplete. He added that having access to seismic data from the Mexican side would help us to complete the picture. The Mexican side expressed interest in exchanging geological and geophysical data but emphasized the need to do so through a formal mechanism set forth in a Memorandum of Understanding (MOU). Despite

later questioning, it remains unclear why the GOM believes an MOU is necessary in order to provide the USG geophysical data from the Mexican side. The GOM indicated that the MOU could be legally binding or not.

¶ 17. (U) Karl continued by noting several discoveries in the Perdido Fold Belt area, but added that only Shell's hub facility at Great White is moving forward to production at this time. He added that the average size of reservoirs in the deep waters of the Gulf is relatively small, approximately 600 acres, compared to the size of a standard USG lease/block which is 5760 acres. Great White is considered too distant from the boundary for exploitation of a transboundary reservoir to occur. The area likely includes extensive faulting and fracturing, and in combination with formation conditions, is probably highly compartmentalized making production more difficult with limited wells. Because of these conditions and the probable limited size of any transboundary reservoirs, drilling at the boundary would be necessary for exploitation of any transboundary resource to occur. Due to the high costs of drilling in deep water - some wells cost \$150 million per well or more - and the need for additional wells to exploit the resource, other projects have not moved forward.

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GOM Proposes Bilateral Agreement  
on Transboundary Reservoirs:  
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¶ 18. (U) Ambassador Hernandez proposed that Mexico would be interested in opening negotiations on a broader bilateral treaty on exploiting transboundary reservoirs. A mechanism for exchanging seismic data could be included in those discussions. Hernandez expressed interest in concluding a bilateral agreement before January 2011 when the moratorium on drilling in the Western Gap expires. If we have not reached agreement by that time, he added, the USG and GOM would have to consider extending the 10-year moratorium contained in the Western Gap Treaty. Hernandez expressed interest in negotiating a broad agreement that would apply to all transboundary reservoirs, including those that may exist on land. He noted that a bilateral agreement would provide legal certainty and avoid potential disputes at a later time. He added that no state should take action on transborder reservoirs that would damage the interests of the other state.

¶9. (U) SENER's Juan Carlos Zepeda emphasized the urgency of beginning negotiations on an agreement. He opined that it would be a mistake to wait for confirmation of a transboundary reservoir before discussing the efficient and equitable exploitation of crossborder resources. Zepeda mentioned several precedents including unitization agreements between U.S. states, the U.S. federal and state governments and between other foreign countries (Norway and the United Kingdom) which could inform the process.

¶10. (U) Kim expressed appreciation for the Mexican proposal and responded that, in principle, the US is open to further discussions on a potential agreement. He noted, however, that in order to consider any such agreement, the US side would want to gather more information as to whether there was or likely was a transboundary reservoir; there would be a need for some type of congressional authorization for the conclusion of these types of international cooperative agreements; and an internal process would have to be undertaken to determine whether such a proposal would be supported by the United States. Kim added that given the complexity of the issues that would be raised by any such agreement, it would help inform the US response if the GOM provided in writing further details on the proposed mechanism for exchanging data and specific Mexican ideas regarding cooperative development and what this would mean for exploration in the buffer zone while an agreement would be negotiated.

¶11. (U) Hernandez agreed to provide a more detailed and formal proposal within the next fifteen days elaborating on its proposal. Hernandez further proposed that the USG and GOM establish a task force with a broad mandate to initiate the exchange process and develop the elements for a possible agreement.

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Eastern Gap - Presentation to UN Commission:  
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¶12. (U) At the end of the meeting, Mexican Legal Adviser Hernandez recalled that GOM had made a partial submission to the Commission on the Limits of the Continental Shelf on its claims for extended continental shelf in the Western Gap. He said that Mexico went before the Commission in April 2008 and made its oral presentation. The Commission has assigned the GOM submission to a subcommission that will convene in December 2008. Hernandez added that Mexico would like to address the Eastern Gap, and reiterated an earlier request that the GOM apparently had made in October 2006 and again in 2007 to carry out consultations with the USG on the Eastern Gap. Recognizing the issues surrounding the US-Cuba relationship, he noted that his government and Cuba recently had agreed to hold bilateral consultations on Mexico's submission on the Eastern Gap, and that GOM was prepared to consult separately with the USG on the Eastern Gap. He said Mexico would like to make a presentation to the UN Commission on the Eastern Gap that would not be objected to by other countries and without prejudice for future agreements on delimitation.

¶13. (U) Participants:

US:

John Kim, Assistant Legal Advisor, State/OES  
Kevin Karl, Regional Supervisor, Interior/MMS  
Steve Textoris, Program Analyst, Interior/MMS  
Sigrid Emrich, Energy Officer, US Embassy Mexico City

Mexico:

Ambassador Joel Hernandez, SRE  
Alejandro Estivill, Director General for North America, SRE  
Victor Manuel Uribe, SRE  
Carlos Quesnel, Embassy of Mexico, Washington DC  
Alejandro Fleming, SRE  
Juan Carlos Zepeda, Director General for Exploration, SENER  
Aldo Flores, Director General International Affairs, SENER  
Luis Macias, PEMEX  
Fernando Lopes Arriaga, PEMEX

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COMMENT:  
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¶14. (U) The timing of the GOM's proposal for a bilateral agreement on transboundary reservoirs and the urgency that the Mexican delegation placed on launching negotiations indicate that the GOM believes a transboundary reservoir could be discovered soon. By engaging the USG on this issue, the GOM hopes to head off a potential political debate at home regarding the "straw" effect, an erroneous argument that claims wells drilled by international oil companies on the US side of the boundary could siphon off significant oil reserves from the Mexican side of the border. Hydrocarbon resources are protected by the Mexican Constitution, raising the sensitivity of this issue, particularly as a national debate over foreign investment in energy projects ensues.

¶15. (U) The USG has long been interested in Mexican seismic data to provide a more complete picture of the potential reservoirs in that section of the Gulf. The GOM's offer to engage with us on this issue and to share data as part of the negotiating process is a positive development, and we should seize this opportunity to access Mexican seismic and geophysical data. At the same time, the GOM's proposal raises a number of questions including what Mexico envisions with respect to existing leases and exploration along the US side of the boundary. We will be able to better evaluate the GOM's idea once we receive the more detailed proposal. End comment.

GARZA